

MICHIGAN SUPREME COURT



Office of Public Information

contact: Marcia McBrien | (313) 972-3219 or (517) 373-0129

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ADOPTIONS, ASBESTOS DOCKET, DOMESTIC VIOLENCE EVIDENCE RULES ON AGENDA FOR JANUARY 29 MICHIGAN SUPREME COURT PUBLIC HEARING

LANSING, MI, January 27, 2004 – Proposed court rule changes aimed at reducing delays in adoption cases are among the agenda items for the Michigan Supreme Court’s January 29 public hearing in Lansing.

Some of the proposals are focused on shortening the time for appeals in termination of parental rights cases, while others would affect the role that trial courts play in adoptions.

The hearing will take place in the Supreme Court courtroom located on the sixth floor of the Michigan Hall of Justice, 925 W. Ottawa Street, Lansing, Michigan 48915. The hearing will begin at 9:30 a.m. and adjourn by 11:30 a.m.

The Court is considering proposed amendments to Michigan Court Rules (MCR) 3.977 and 7.204 (**File no. 2003-25**). The changes were recommended by the Dependency Appeals Work Group of the Michigan Court of Appeals; dependency appeals are defined as appeals that involve termination of parental rights or a dispute over child custody.

Under MCR 3.977, birth parents who wish to appeal a trial court’s decision terminating their parental rights, but who cannot afford an attorney, may ask the trial judge to appoint an attorney for them. The proposed changes shorten the deadline for requesting the appointment of counsel from 21 to 14 days. In addition, the changes would impose a new 14-day deadline for the trial judge to enter an order appointing counsel. The chief judge of the court would “bear primary responsibility for ensuring that the appointment is made within the deadline,” the rule proposal states.

A proposed new subrule to MCR 3.977 would have the trial court’s order appointing counsel also function as the claim of appeal. Trial courts would use a single form, to be approved by the State Court Administrative Office, as a combined order of appointment, trial court transcript order, and claim of appeal. Another change to MCR 3.977 states that the trial court “must” order transcripts for the appeal “at public expense” if the court determines that the parent is not able to pay for the transcripts. The current version of the rule states that the court “may” do so. A proposed change to MCR 7.204 tracks changes to MCR 3.977 by shortening the time to request appointment of appellate counsel in civil cases to 14 from 21 days.

Also before the Court are the recommendations of the Supreme Court Adoption Work Group (**File no. 2003-50**) to amend MCRs 3.915, 3.965, 3.975, 3.976, and 3.977. In a September

2003 report, the group recommended amending state court rules to 1) encourage filing of petitions for termination of parental rights in less than 42 days; 2) encourage earlier scheduling of permanency planning hearings; 3) give termination of parental rights cases “the highest possible priority” for scheduling; 4) identify early in the proceedings absent parents, relatives who may be potential caregivers, and other interested parties; 5) ensure participation of interested persons at hearings; 6) control substitution of attorneys for children; and 7) require courts to check on whether lawyer-guardians ad litem meet with the children they represent.

The public hearing agenda includes a proposal (**File no. 2001-51**) to allow prior acts of domestic violence to be used as evidence in prosecuting defendants in domestic violence cases. Michigan Rule of Evidence (MRE) 404 currently provides in part that “Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith.”

The court will also consider a proposal (**File no. 2003-47**) to establish an inactive asbestos docketing system. The docketing system would include “claimants with nonmalignant asbestos-related conditions who evidence no physical or functional impairment . . .” Claimants would “remain on the inactive docket until objective medical criteria indicate that the asbestos-related condition has developed into a physical injury.” Once a claimant was placed on the inactive docket, the statute of limitations for his or her claim would stop running.

The agenda also includes proposals to:

- Modify MCR 7.202 to resolve an inconsistency between that rule and MCR 2.602(A) concerning the meaning of “entry” of an order. (**File no. 2000-29**)
- Amend Rule 2(B) of the Rules of the Board of Law Examiners to eliminate the current option that a candidate who has an LLM (a postgraduate degree in law) from an ABA-accredited law school – but lacks a Juris Doctor degree from an accredited law school -- may apply for admission to the State Bar. Another amendment would allow an applicant to request the Bar’s approval of his or her law school’s reputation and qualifications, where the school has ceased to operate after the applicant graduated. (**File nos. 2002-06, 2003-02**)
- Revise MCR 2.105 to prohibit service of process by publication in cases where personal jurisdiction is required. (**File no. 2002-30**)
- Amend Supreme Court Administrative Order 1993-5 regarding the State Bar; part of the proposal would govern State Bar members’ challenges to the Bar’s use of dues money to take positions on legislation and would address public policy advocacy by sections of the State Bar. (**File no. 2003-15**)
- Require parties in medical malpractice cases to challenge promptly any alleged defects in notices of intent to sue, affidavits of merit, affidavits of meritorious defense, and expert witness qualifications. (**File no. 2003-30**)
- Retain an amendment of MCR 2.119, which went into effect on October 1, 2003, that amended various provisions related to court filing fees. (**File no. 2003-52**)

More information about these agenda items, including comments, is available at <http://courts.michigan.gov/supremecourt/Resources/Administrative/index.htm>.

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